

Civil/Probate/Appeal Division
Auburn Small Claims Division
101 Maple Street
Auburn, CA 95603
(530) 889-6550
Hours: 8:00 a.m. to 3:00 p.m.
Phone Hours 8:00 a.m. to 3:00 p.m.

CIVIL

Civil matters involve private disputes in which one side sues another side to recover money, real or personal property, to enforce a contract or an obligation; to collect damages for injury (tort); or to protect a civil right.

In June of 1998, voters passed Proposition 220 allowing courts to unify. Placer County Superior Court was among the first to unify under this proposition. The primary effect of unification for civil cases is that Municipal Court level civil cases are now called “limited jurisdiction” cases.

The laws governing civil matters are established by the State Legislature in the Code of Civil Procedure and the Civil Code. Limited civil cases are cases involving \$25,000 or less and unlimited jurisdiction is for cases exceeding \$25,000. Small claims jurisdiction is \$5,000 or less.

PARTIES TO THE ACTION

A civil case begins when the plaintiff sues the defendant by filing a complaint with the court. A party to a civil suit may be an individual(s), partnership, business, corporation or governmental agency. Consequently, a civil case may have multiple plaintiffs and/or defendants.

In some instances a civil petition is filed rather than a civil complaint. The party filing the petition is called the petitioner and the party responding is the respondent. This less combative language is used in petitions for name change, emancipation of minors, compromise of claim of minors and petitions for writ of mandate.

An intervenor is a person who wants to be involved in the case but can't be involved without permission of the court.

Parties in limited or unlimited civil cases may retain a private attorney or act in propria persona (in pro per) as their own attorney.

CASE TYPES

The first document filed in a civil case is typically the complaint. This document describes the situation and what action is requested. Examples are:

- Contract Disputes: Contract disputes allege that someone willfully failed to fulfill a promise within a part or all of a contract
- Damages for Personal Injury Suits: Personal injury cases allege that someone was hurt due to an action or another party's negligence.
- Wrongful Death Actions: A wrongful death action alleges that someone died due to an action or another party's negligence.
- Petition: A petition is a written application to the court requesting judicial action on a certain matter. Examples of civil petitions are a request to change a name, free a child from the custody and control of a parent (emancipation) or to resolve a civil harassment issue.
- Writ of Mandate: A petition for a writ of mandate asks the court to restore rights that may have been illegally withheld from a person or entity.
- Emancipation of Minor: A minor at least 14 years of age, may petition the superior court to be declared free from the care, custody and control of their parent(s).
- Civil Harassments: Persons may file a petition in the superior court for enforceable orders protecting them from being harassed by specific others.

ACCELERATED CIVIL TRIAL PROGRAM

In 1988, the California Legislature enacted a monitoring system for disposition of all civil actions. The goal is to dispose of all general civil cases within designated time limits, unless exempt. This program outlines three classes of cases based on complexity of issues, severity of damages, number of parties, etc. The classes are as follows:

Class:	Complete Within:
Class 1	12 months
Class 2	18 months
Class 3	24 months

All general civil cases are designated class one upon filing. If either party wishes to have the case designated differently, a motion must be filed and then heard on the Presiding Judges calendar.

ARBITRATION (530) 889-6560

Typically, court arbitration is a hearing wherein a neutral third party or panel reviews evidence, hears argument and renders a decision regarding a dispute. Arbitration is less formal and sometimes less complex than traditional court trials. However, court arbitration is not typically binding and either party can request that the case proceed to trial. In some instances, the parties may stipulate to binding arbitration and the decision of the arbitrator is then final.

Placer County local rules require parties to participate in the arbitration process if their action falls within designated guidelines.

LAW AND MOTION

Placer County Superior Court has one department that hears law and motion matters. A motion is an oral or written request made by a party requesting a ruling or order on a particular point. An ex parte request is a judicial proceeding performed for one party of the action.

The law and motion department has a tentative ruling system where the judge renders a decision the workday before the scheduled hearing date. The tentative ruling is placed on the recorded message phone for access by the public it is also placed on the bar association's web site www.placerbar.org. Parties objecting to the court's tentative ruling may request oral argument by advising the court, opposing parties and counsel of their intent to appear at the hearing. If oral argument is not requested, the tentative ruling becomes the final ruling of the court.

CALENDARING

The Civil Calendaring Section is responsible for entering all case demographics or case information/history into the automated case management system and preparing the following calendars:

- Civil harassment
- Orders of Examination
- All Motions
- Case Management Hearings
- Default Hearings

UNLAWFUL DETAINER CASES (Eviction Cases)

Unlawful Detainer cases involve lawsuits in which one party sues another to recover possession of real property. An example of an unlawful detainer case is a landlord suing to recover possession of property from a renter. Unlawful detainer actions are considered civil matters and are governed by the Code of Civil Procedure and Civil Code.

Unlawful detainer actions are filed in the civil division of the court. They are responsible for assisting the public in processing all case documentation.

PROBATE (530) 889-6557

The Probate Court of the Placer County Superior Court is responsible for hearing matters regarding estates, guardianships, conservatorships, adoptions and trusts.

PROBATE CASE PROCEEDINGS

The original meaning of the term "probate" is to "prove a will". Today's "probate" generally refers to formal, court supervised administration of a decedent's estate or alternatives to formal probate.

A proceeding in probate court begins when a petition is filed. The person filing the probate action is called the "petitioner." In contested cases, a person opposing the petition is referred to as a "contestant" or "objector." Contested probate proceedings and civil proceedings are similar; however, in probate an at-issue memorandum and trial setting conference is replaced with a noticed hearing. These petitions may be submitted as typewritten pleadings or on pre-printed Judicial Council forms. The matter is then set for hearing. The petitioner is required to give notice of the pending hearing to all interested parties.

A person may die "testate" (leaving a will) or "intestate" (leaving no will). In either case it may be necessary for the superior court to oversee administration and disposition of the decedent's estate or property. Probate of estate is complex, involving collection of the decedent's assets, payment of last expenses and debts, and final distribution of the estate to beneficiaries.

Wills can be witnessed or holographic. A witnessed will is usually a formally drawn document signed by the decedent and at least two witnesses. A holographic will is a document personally handwritten, dated and signed by the decedent. These wills are admitted into probate when the petition is granted.

Beneficiaries are named in the will. An heir is a person who inherits from an estate without a will.

Personal representatives (executors and administrators) are appointed by the court to administer an estate. An executor is the person nominated in the will. An administrator is the person appointed by the court when an executor cannot or will not act or if the person died intestate (without a will). Letters of administration (testamentary) empower an appointed representative or executor to conduct financial transactions on behalf of the estate. When certifying copies of Letters, the clerk is not only stating that they are true and correct copies of the original on file, but that they have not been revoked, annulled, set aside and remain in full force and effect.

After Letters are issued in a decedent's estate, a four-month period commences during which a creditor may file a creditor's claim. A creditor's claim is a document wherein a creditor demands payment for a debt incurred by the decedent. Judicial Council forms must be used in this Instance. A probate proceeding cannot be finalized until the four-month period has expired.

OTHER TYPES OF CASE PROCEEDINGS IN PROBATE COURT

Petitions for Appointment of Guardianship/Conservator:

Guardianships and conservatorships are established to protect and care for the person and property of minors or adults. A guardian is appointed to care for a minor. A conservator is appointed to care for the adult person who is incapable of caring for themselves or their property. The court makes an order in response to all petitions. Conservatorship cases established under the Lanterman, Petris, Short Act (LPS) as set up by the legislature. LPS cases are confidential except for the final judgment.

Mental Health Proceedings: The judge presides over mental health hearings stemming from Petitions for Writ of Habeas Corpus, competency hearings and electro-convulsive therapy hearings. These hearings are generally heard at mental health facilities.

PROBATE STAFF

Probate Attorney/Examiner – The probate court attorney and/or examiner reviews the probate law and motion calendar for legal and procedural deficiencies and makes recommendations to the court. They review ex parte petitions, provide legal information to local probate attorneys and the public and advise the probate staff regarding procedures and policies. In the absence of the judge, the probate court attorney may sit as a judge pro tem and approve probate matters.

Probate Investigators – The probate investigator is responsible for interviewing proposed conservatees, wards, guardians and other individuals to provide a recommendation to the court regarding the conservatorships or guardianship of a person. They also review financial accountings in established conservatorships and guardianships with estate cases.

Court Staff – A courtroom clerk and a bailiff provide support to the court and public. The staff are present during each calendar and perform a variety of clerical functions before and after hearings.

Clerical Staff – The clerical staff of the unit provides support to the court, probate court attorney/examiner and investigators by performing a variety of clerical functions. Some of these functions include;

- Filing petitions and setting dates for hearing
- Preparing court calendars
- Preparing and processing investigator reports
- Maintaining probate files
- Scheduling mental health hearings
- Researching, filing and processing miscellaneous documents
- Maintaining forms

APPEALS (530) 889-6564

An appeal is a petition to a higher court for the purpose of obtaining a review of a lower court decision and requesting a reversal of the lower court's judgment or the granting of a new trial.

APPELLATE COURT

The Appellate Court is the court having jurisdiction to review the law as applied to a prior determination of the same case; "not a forum in which to make a new case. It is merely a court of review to determine whether or not the rulings and judgment of the court below upon the case as made were correct" The Appellate Division of the Superior Court is the court of appeal for limited, misdemeanor and traffic citation cases. The District Courts of Appeal and Supreme Court are the courts of appeals for unlimited, juvenile, family law and felony cases.

Parties should file their appeal in the division in which their action was handled.